

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 17, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Ortega, Acting P.J., Vogel (Miriam A.), J., Mallano, J. and D. Nolan, Deputy Clerk.

Each of the following:

B161090 Heins v. Garcia
B160526 People v. Pacheco
B162585 People v. Stewart
B163119 Wong-Kraatz v. Kraatz
B163243 Jalali v. M.G. Eagle Entertainment Corp.
B164473 People v. Bolden
B165010 Vinci v. Aida Grey, Inc.
B165479 People v. Livingston
B166059 Brown v. Midfirst Bank
B166159 People v. Granados
B166943 DCFS v. Marsha M. et al.
B167176 People v. Solorzano

Argument waived, cause submitted.

B160823 Citi-Wide Preferred Couriers, Inc.
 v.
 Golden Eagle Insurance Corp.

Merits:

Argued by Dennis M. Elber for appellant with no appearance by Timothy Gonzales for respondent. Counsel waives the presence of Spencer, P.J.
Cause submitted.

Mallano, J. leaves the bench.

DIVISION ONE (Continued)

B163955 People
 v.
 Ernesto J. Lopez

Merits:
Argued by Richard L. Schwartzberg for appellant and by Lisa J. Brault,
Deputy Attorney General for respondent. Counsel waives the presence of
Spencer, P.J. Cause submitted.

Mallano, J. returns to the bench.

B165794 People
 v.
 Sharon D. Parker

Merits:
Argued by Marc A. Gibbons for appellant and by Richard S. Moskowitz,
Deputy Attorney General for respondent. Cause submitted.

B160111 Phase 2 Developers
 v.
 Citicorp Real Estate Inc., et al.

Merits:
Argued by Michael W. McCann for appellant and by Alan J. Heinrich for
respondents. Counsel waives the presence of Spencer, P.J. Cause
submitted.

B164076 Heidi Hutchinson Apple
 v.
 Jeffrey D. Apple

Merits:
Argued by David L. Jensen for appellant and by Martin L. Horwitz for
respondent. Counsel waives the presence of Spencer, P.J. Cause
submitted.

Vogel, J. leaves the bench.

DIVISION ONE (Continued)

B162482 Lottie Wishum
 v.
 Long Beach Memorial Hospital

Merits:
Argued by Lucien E. Dierickx for appellant and by Amy W. Lyons for respondent. Counsel waives the presence of Spencer, P.J. Cause submitted.

Vogel, J. returns to the bench.

B169799 Oved & Associates Construction Services, Inc.
 v.
 Superior Court, Los Angeles County
 (Star Iron Works, Inc., et al., r.p.i.)

Merits:
Argued by Wendy C. Lascher for petitioner and by Kent G. Mariconda for real parties in interest. Counsel waives the presence of Spencer, P.J. Cause submitted.

Vogel, J. leaves the bench.

B158908 Roger E. Bacon
 v.
 Alan T. Sasaki et al.

Merits:
Argued by Stephen M. Harris for appellant and by Albert Ramseyer, Deputy County Counsel for respondents. Counsel waives the presence of Spencer, P.J. Cause submitted.

Vogel, J. returns to the bench.

DIVISION ONE (Continued)

B162443 Edwin B. Stegman
 v.
 Barry Pollack, et al.

Merits:
Argued by Edwin B. Stegman, appellant in propria persona and by Richard S. Trugman for respondents. Counsel waives the presence of Spencer, P.J. Cause submitted.

Mallano, J. leaves the bench.

B161363 Adam Singer, et al.
 v.
 Minglewood Data Systems, et al.

Merits:
Argued by Robert Guilford for appellants and by Hillel Chodos for respondents. Counsel waives the presence of Spencer, P.J. Cause submitted.

Mallano, J. returns to the bench.

B160970 Sylvester P., et al.
 v.
 B.W.A Home Health Agency

Merits:
Argued by Joel Beckman for appellants and by Larry A. Dunlap for respondent. Counsel waives the presence of Spencer, P.J. Cause submitted.

B162299 People
 v.
 Santana Kelly

Merits:
Argued by Kenneth R. Nahigian for appellant and by Lisa J. Brault, Deputy Attorney General for respondent. Counsel waives the presence of Spencer, P.J. Cause submitted.

DIVISION ONE (Continued)

Vogel, J. leaves the bench.

B163212 People
v.
McGaughey, et al.

Merits:

Argued by John L. Staley for appellant Childs, by Susan K. Keiser for appellant Booth and by Gary A. Lieberman, Deputy Attorney General for respondent. Counsel waives the presence of Spencer, P.J. Cause submitted.

Court adjourned.

B168327 Flores (Not for Publication)
v.
Superior Court, Los Angeles County
(New Products of America et al., r.p.i.)

The Court:

THEREFORE, let a peremptory writ issue, commanding respondent superior court to vacate its order compelling arbitration in Los Angeles Superior Court case No. BC280319, entitled Eduardo Flores v. New Products of America et al., and, upon conducting a hearing as to whether petitioner qualifies as a customer under the relevant Business and Professions Code sections, enter a new order. Petitioner is awarded the costs of this proceeding.

B166059 Brown, et al. (Not for Publication)
v.
Midfirst Bank, et al.

The judgment is affirmed. MidFirst's request for sanctions is denied but it is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

DIVISION ONE (Continued)

B160403 People
 v.
 Quintero

Filed order modifying opinion. (No change in the judgment)

DIVISION TWO

B166607 People (Not for Publication)
 v.
 Suh

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B162163 People (Not for Publication)
 v.
 Tellez

The judgment is affirmed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

December 17, 2003 (Continued)

DIVISION TWO (Continued)

B163696 People (Not for Publication)
v.
Chio

The judgment is affirmed.

Nott, Acting P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

DIVISION FOUR

B169892 Fortunato (Certified for Publication)
v.
Superior Court, Los Angeles County
(Ingrassia et al., r.p.i.)

The petition is granted, and a writ of mandate shall issue commanding the trial court to vacate its order denying petitioner's motion for protective order with regard to his personal tax returns, and to issue a new order granting the requested protection. Petitioner shall have his costs in these proceedings.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B165354 Los Angeles County, D.C.S. (Not for Publication)
v.
Maricela O., et al.

The order of the juvenile court is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

December 17, 2003 (Continued)

DIVISION FIVE

B163940 People (Not for Publication)

V.

Shawn Dierolf

The judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.

Grignon, J.

B167788 Los Angeles County, D.C.S. (Not for Publication)

V.

Rosana C.

The juvenile court's order terminating mother's parental rights is affirmed.

Mosk, J.

We concur: Turner, P.J.

Armstrong, J.

B162053 San Vicente Villas Homeowners Association Inc. (Not for Publication)

$$\mathbf{V}_i$$

Marci Cohen

The summary judgment is affirmed. Respondent shall recover its costs on appeal.

Mosk, J.

We concur: Grignon, Acting P.J.

Armstrong, J.

December 17, 2003 (Continued)

DIVIISON FIVE (Continued)

B161740 Gordon Wheeler
v.
Dan Castro

Filed order denying petition for rehearing.

DIVISION SIX

B163516 People (Not for Publication)
v.
Herrera

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B158442 People (Not for Publication)
v.
Hill

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B166512 People (Not for Publication)
v.
Vasquez

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

December 17, 2003 (Continued)

DIVISION SIX (Continued)

B164977 People (Not for Publication)
v.
Calloway

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

B155948 People (Not for Publication)
v.
Estrada, et al.

Cervantes' sentence is modified to 32 years to life. Estrada's sentence is modified to 32 years to life. In all other respects the judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B160389 City of Santa Paula (Certified for Publication)
v.
Narula

The order is affirmed. Costs to respondent.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

DIVISION SEVEN

B161683 Pearson-Sterling (Not for Publication)
 v.
 Pearson

The judgment is affirmed. Respondent(s) to recover costs.

Perluss, P.J.

We concur: Johnson, J.
 Zelon, J.

B164502 People (Not for Publication)
 v.
 Alexander C.

The judgment is affirmed.

Perluss, P.J.

We concur: Johnson, J.
 Zelon, J.

B165091 People (Not for Publication)
 v.
 White

The superior court's order granting White's petition for writ of habeas corpus is reversed.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

December 17, 2003 (Continued)

DIVISION SEVEN (Continued)

B165159 People (Not for Publication)
v.
Martinez

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.
Zelon, J.

B162449 Frankovich, et al. (Not for Publication)
v.
Truck Insurance Exchange

The judgment is affirmed. Respondent(s) to recover costs.

Perluss, P.J.

We concur: Johnson, J.
 Zelon, J.

B166658 Los Angeles County, D.C.S.
v.
Rebecca T. and Calvin H.
In re Amirah H., a minor

Filed order denying petition for rehearing.

DIVISION EIGHT

B164923 Los Angeles County, D.C.S. (Not for Publication)
v.
Grace C.,

The February 11, 2003 order granting Xavier's and Eleanor's section 388 petition and terminating Grace's guardianship is vacated. The matter is remanded to the juvenile court with directions to hold a new hearing on the section 388 petition, which hearing is to be in conformance with rules 1432, 1455, and 1456, and to permit the parties to call and cross-examine witnesses. We do not address whether there should be any change in the present living arrangements for Xavier and Eleanor pending the hearing which we have ordered.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B161177 People (Not for Publication)
v.
Brown

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B163921 People (Not for Publication)
v.
Davis

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

December 17, 2003 (Continued)

DIVISION EIGHT (Continued)

B157692 Wirsing (Not for Publication)
v.
Holiday Inn, Inc.

The judgment is reversed and remanded. Appellant to recover her costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B165737 Los Angeles County, D.C.S. (Not for Publication)
v.
Michelle H.,
In re Matthew C., a Person Coming Under the Juvenile

The order terminating Mother's parental rights with respect to Matthew is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B161433 People (Not for Publication)
v.
Dakota G.,
In re Dakota G., a Person Coming Under the Juv

The disposition order is modified to reflect a period of confinement not to exceed 6 months. As modified, the disposition order is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

December 17, 2003 (Continued)

DIVISION EIGHT (Continued)

B157655 People (Not for Publication)
v.
Smith

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B162473 Los Angeles County, D.C.S. (Not for Publication)
v.
Gloria T.,
In re Tamaria T., a Person Coming Under the Juvenile Court Law.

The order granting the section 388 petition is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B156567 People (Not for Publication)
v.
Goeringer

The judgment is affirmed as to count 3, reversed as to count 1, and remanded for further proceedings consistent with this opinion.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

DIVISION EIGHT (Continued)

B170160 Lynwood Unified School District (Not for Publication)
v.
Superior Court, Los Angeles County
(Alexander M., et al., r.p.i.)

The petition is granted. Let a peremptory writ of mandate issue, directing the trial court to: (1) vacate its August 29, 2003 order denying the District's motion for summary judgment; and (2) issue a new order granting the motion. The District is to recover its costs in this writ proceeding.

Boland, J.

We concur: Cooper, P.J.
Flier, J.